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FRESNO, CALIF.

Debra Mahnke
California Regional Water Quality Control Board, Central Valley Region
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dmahnke@waterboards.ca.gov

Re: Comments on Tentative Waste Discharge Requirements for Tejon Mountain Village LLC

Dear Ms. Mahnke:

We appreciate all the work the staff at the Central Valley Regional Water Quality Control Board has put into the Tentative Waste Discharge Requirements (WDRs) for the Tejon Mountain Village Project in Kern County. Below are some clarifications and comments for your consideration in finalizing the WDRs.

At the outset, we think it is important to clarify two aspects of the Project Description:

- a) In Finding 2, please clarify that the Project does not intend to use groundwater for potable or nonpotable uses.
- b) In Finding 7, please clarify that the applicant has amended the Clean Water Act Section 404 federal permit application to avoid all federal jurisdictional wetlands on the site. As noted in Finding 7, the Project has decreased its impacts to waters of the U.S. from 39 to 27 locations. This means that the project has been modified to reduce federal jurisdictional impact area from 3.55 acres to 1.46 acres, including, as noted above, full avoidance of all federal jurisdictional wetlands.

Second, while we understand that these WDRs regulate the impacts from the TMV Project into waters of the State that are not waters of the U.S., and that the 401 Certification (in combination with the new Construction General Permit) addresses the impacts to the waters of the U.S. separately (per Findings 7 and 8), we believe it would be beneficial to add a new finding after Finding 8 that states: "Discharges of pollutants from the Project in the Castac Lake Watershed are subject to the mitigation measures set forth in the Water Quality Plan and the Final Environmental Impact Report for the Project." Although Castac Lake is off-site and management of the lake is not part of the Project nor conducted by the applicant, the Castac Lake

Watershed is part of the receiving waters and as a practical matter, because Grapevine Creek occasionally receives overflow from Castac Lake (Finding 4), it is not possible to consider the two waters absolutely independently (e.g., by considering Castac Lake solely through the 401 Certification versus the WDRs). Indeed, the Water Quality Plan and the Final Environmental Impact Report (EIR) mitigation measures fully address the impacts from discharge of fill, construction stormwater and hydromodification and stormwater runoff from the Project as a whole to all waters of the State (including those identified by the U.S. Army Corps of Engineers as waters of the U.S., like Castac Lake). These mitigation measures include requirements for low impact development, source control, site design, treatment control, hydromodification control and groundwater measures. The Water Quality Plan demonstrates that the mitigation measures not only allow the Project to meet water quality objectives, but in many cases will actually improve water quality of any runoff to the adjacent Castac Lake and in turn to Grapevine Creek. The EIR also includes several flow control mitigation measures to prevent impacts to Grapevine Creek related to possible flooding of Castac Lake.

Third, there are a few clarifications regarding whether certain provisions apply to construction activities, post-construction activities or both that would be helpful and will enable us to better understand the intent of the provisions and how to comply. Specifically:

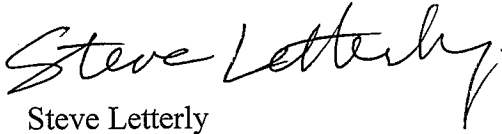
- a) Please clarify whether the Numeric Action Limitation provisions B.1-B.3 apply to construction activities only.
- b) Please clarify whether the Discharge Specifications provisions C.1-C.23 apply to construction activities only.
- c) Please clarify whether Attachment D, Good Housekeeping Measures, applies to construction activities only.

Fourth, we are concerned that the Reporting section of the Monitoring and Reporting Program (MRP) is not entirely clear or practical. Specifically, the post-construction reporting requirements in section III.C.2 appear to last in perpetuity. However, there are portions of the post-construction requirements that have logical reporting end-dates. For example, the hydromodification monitoring will be completed 5 years after construction per I.N.3 and the Grapevine Creek monitoring will be completed 2 years after construction per I.N.4. Once this monitoring is completed, it does not make sense to have annual reports in perpetuity. With respect to the treatment facilities, once the facility is shown to be operational and effective after 2 years, we recommend requiring evidence that the facility will be permanently maintained and monitored, for example through CC&Rs or a deed restriction. Similarly, the Dredge and Fill reporting requirements in section III.C.3 and the Compensatory Mitigation reporting requirements in section III.C.4 both appear to last in perpetuity, but also have logical end-dates - upon completion and stabilization of the fill for the Dredge and Fill activities and upon meeting the final performance criteria for the Compensatory Mitigation, respectively.

Finally, there is a discrepancy in the MRP regarding whether records should be kept for 3 or 5 years. Under section III, the MRP requires that construction records be retained for 3 years. Under section IV, it requires that all records be retained for 5 years.

Again, thank you for your work on this project.

Sincerely,

A handwritten signature in black ink that reads "Steve Letterly". The signature is fluid and cursive, with the first name "Steve" and last name "Letterly" clearly distinguishable.

Steve Letterly

Vice President, Entitlements

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